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# NATIONAL ASSOCIATION OF THE DEAF

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May 7, 2001

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20554

*Reply Comments  
in the Matter of  
Nondiscrimination in the Distribution of  
Interactive Television Services Over Cable  
CS Docket No. 01-7*

The National Association of the Deaf (NAD) is the nation's oldest and largest organization representing deaf and hard of hearing Americans, with a broad membership base that includes direct members, state association affiliates, and organizational affiliates. Within the NAD infrastructure is a very active Telecommunications Advocacy Committee, which provides leadership and guidance on a broad range of communications-related subjects.

The NAD has long advocated for accessible communications of all forms, including telecommunications in its many permutations. Our membership is deeply worried that the rapid evolution of communications technologies, including, in the instant case, new ways of using cable television, will render inaccessible vital new communications, unless the FCC acts affirmatively to assure equal access by all consumers.

The NAD is especially concerned that comments filed in the above-captioned proceeding have ignored another meaning of the word "nondiscrimination" with respect to interactive television services over cable. We speak, of course, of "nondiscrimination" on the basis of disability. Our concerns go to the ability of viewers who are able to watch current cable programming, thanks to captioning [in the case of persons who are deaf or hard of hearing] or video description [in the case of persons who are blind], and assistive technologies [in the case of persons who have cerebral palsy or other conditions limiting fine-motor control] to be able to continue to enjoy cable programming after the advent of cable-based information services.

The Commission must act to regulate Interactive Television (ITV) services in such a way as to apply the protections the Telecommunications Act gives to consumers with disabilities. We speak particularly of Title II and its section 255 and of Title VII and its requirements for captioning and video description. The fact that ITV is a hybrid services does not obviate the fact that it is delivered through two regulated communications, namely television and telecommunications.

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Specifically:

1. Interactive Television Services raise issues of accessibility because they offer:
  - a. Television commerce. Will such on-screen offerings be readable on-screen? If not, or if not fully so, will they be captioned? If yes, will they be compatible with screen readers or other technologies offering spoken versions for people who are blind or have low vision?
  - b. Real-time interaction with other viewers. Will such interactions be accessible (e.g., be captioned if spoken information is offered? be compatible with speech synthesis or other appropriate media if print is offered?).
  - c. Additional ways to gather information about viewing options. This potentially could be very helpful for individuals who are blind or have low vision, who could use Interactive Television Services to identify programs they wish to view. Many cannot read printed TV guides. However, and this is our point: this potential will be realized *only* if the Interactive Television Services are themselves accessible to and usable by persons who are blind or have low vision (i.e., compatible with speech synthesis, screen image enlarging software, etc.).
  - d. Other camera angles. Will such video itself be captioned? Will it interfere in any way with the main video transmission, which may be captioned?
2. The possibility that wrap-around screens and other Interactive Television Services displays that use pop-up images may interfere with, obscure, or even destroy captions needs to be investigated. Section 713 of the Telecommunications Act of 1996 [PL 104-104] requires that all non-exempt television programming be captioned no later than 1/1/06 and that increasing percentages be captioned prior to that date, according to a schedule set by the FCC. See "Fact Sheet: Closed Captioning of Video Programming, June 1999, at [fcc.gov/cib/dro/ccfactsh.html](http://fcc.gov/cib/dro/ccfactsh.html).

The NAD is seriously concerned that Interactive Television Services, which were in their infancy when PL 104-104 was debated and passed by the Congress in late 1995 and early 1996, may actually limit consumer benefits of statutorily mandated captioning. The FCC's rules specifically require that cable services "pass through" captions that are generated as part of or to accompany programs. Thus, providers of Interactive Television Services may violate the "pass-through" rule unless the requirement to continue to pass through all captions is explicitly attached to such new services.

The issue raises a question that neither the FCC nor commenters have answered to our satisfaction: Are "Interactive Television Services" themselves "programs" with respect to section 713?

In closing, I wish to thank the FCC for its careful consideration of and attention to the questions and concerns raised in this document.

Sincerely,



Nancy J. Bloch  
Executive Director

cc: NAD Board of Directors  
NAD Telecommunications Advocacy Network